

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK



TRAVELERS CASUALTY  
INSURANCE COMPANY,

Plaintiff,  
v.

23-CV-287 (JLS) (HKS)

ERIE INSURANCE COMPANY,  
Defendants.

#### DECISION AND ORDER

Defendant Erie Insurance Company removed this case, in which Plaintiff Travelers Casualty Insurance Company seeks declaratory judgment regarding an insurance dispute, to this Court in March 2023. *See generally* Dkt. 1; Dkt. 1-2. Defendant answered and filed a counterclaim. Dkt. 5. Plaintiff then answered the counterclaim Dkt. 8.

Plaintiff moved for summary judgment. Dkt. 12. United States Magistrate Judge H. Kenneth Schroeder, Jr.,<sup>1</sup> issued a briefing schedule (Dkt. 13), but Defendant did not respond. On November 14, 2024, Judge Schroeder issued a Report and Recommendation (“R&R”), recommending that this Court: (1) grant Plaintiff summary judgment on its declaratory judgment claim regarding Defendant’s duty to defend; and (2) deny Plaintiff summary judgment, without prejudice, on its declaratory judgment claim regarding Defendant’s duty to indemnify. Dkt. 14.

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<sup>1</sup> On May 12, 2023, this Court referred the case to Judge Schroeder for all pretrial matters, pursuant to 28 U.S.C. §§ 636(b)(1)(A)–(C). Dkt. 6.

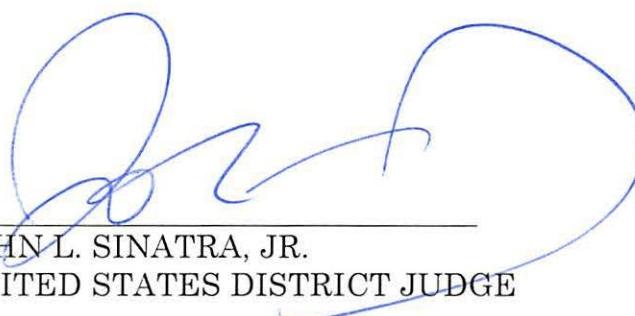
Neither party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so here, this Court nevertheless reviewed Judge Schroeder's R&R. Based on that review, and absent any objections, the Court accepts and adopts the R&R.

### CONCLUSION

For the reasons stated above and in the R&R, the Court GRANTS, IN PART, and DENIES, IN PART, Plaintiff's motion for summary judgment (Dkt. 12). The Court refers the case back to Judge Schroeder for further proceedings—including any status reports he deems appropriate—consistent with the referral order at Dkt. 6. SO ORDERED.

Dated: December 9, 2024  
Buffalo, New York



JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE